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Total Number of Pages in This Submission

24

Application Number

09/977,775

Filing Date

October 15, 2001

First Named Inventor

Dianne D. Mueller et al.

Art Unit

3753

Examiner Name

Lilijana V. Ciric

Attorney Docket Number

71354-0007

ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment/Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/Incomplete Application
- ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53

- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
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- ☐ Landscape Table on CD

- ☐ After Allowance Communication to TC
- ☒ Appeal Communication to Board of Appeals and Interferences
- ☒ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please identify below):

Remarks

Attached please find a Response to Notice of Non-Compliant Amendment (2 pages) and Amended Appeal Brief (21 pages)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

McGarry Bair PC

Signature

Printed name

Mark A. Davis

Date

November 10, 2005

Reg. No.

37,118

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November 10, 2005

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dianne D. Mueller et al.
For: A REFRIGERATED OVEN
Serial No.: 09/977,775 Examiner: Ljiljana V. Ciric
Filed: October 15, 2001 Group Art Unit: 3753
Atty. Docket: US20010143/71354-0007 Confirmation No.: 3779

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Sir:

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF
(37 CFR 41.37)

In response to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed October 14, 2005, an amended Appeal Brief is enclosed herewith.

The Examiner has asserted that cancelled claims 27-46 are not properly addressed in the Status of Claims and the listing of claims in the Claims Appendix. Applicants' respectfully submit that claims 27-46 are properly addressed in the amended Appeal Brief.

Section III of the Appeal Brief entitled "Status of Claims" has been amended to read:

Claims 1-46 were in the application as filed. Pursuant to the Office Action mailed August 12, 2003, requiring an election of species, claims 27-46 were cancelled without prejudice in the Amendment

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Filed: October 15, 2001
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Examiner: Ljiljana V. Ciric
Group Art Unit: 3753

filed November 13, 2003. Claims 1-11 and 14-20, which are presented in the Appendix, are pending in the application and have been twice rejected by the Examiner. Claims 12, 13, and 21-26, which are presented in the Appendix, are pending in the application and have been objected to by the Examiner as dependent upon a rejected base claim. Accordingly, Appellants hereby appeal the final rejection of claims 1-11 and 14-20.

37 CFR 41.37(c)(1) states in pertinent part "The brief shall contain the following items under appropriate headings. ... (viii) An appendix containing a copy of the claims involved in the appeal." Claims 27-46 were subject to restriction and canceled without prejudice by Applicants. Thus, they are not "involved in the appeal." After discussion of 37 CFR 41.37(c)(1)(viii) during a telephone interview between the Examiner and Applicants' attorney on November 7, 2005, for which Applicants express their appreciation, Applicants were advised that no further amendment to the Claims Appendix would be required by the Examiner. Thus, Section VIII entitled "Claims Appendix" has not been amended.

Applicants submit that the amended Appeal Brief fully complies with 37 CFR 41.37.
If there are any further questions regarding this matter, please contact the undersigned.

Respectfully submitted,

Dianne D. Mueller et al.

Dated: 11/10/05

By: 

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